

REMARKS

It is noted that claims 1-10, 12-16, and 18-22 are pending in the application and that all of the claims stand rejected as discussed more fully below.

Independent claims 1, 8, 15, 20 and 22 have been amended and, along with independent claim 18 and dependent claims 2-7, 9, 10, 12-14, 16, 19 and 21, are believed to clearly distinguish over the references of record and be in condition for allowance.

On the merits, claims 1, 2, 7-9, 14, 15 and 22 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent No. 3,106,398 to Gowdey. The Gowdey patent discloses a police weapon having a hand-grip section 12 with integral end portions 14, 15 that terminate in angular groove sections generally indicated at 16, 17. The Gowdey patent specifically teaches that the hand grip section 12 extends "in length the approximate width of a peace officer's fist" (Col. 1, lines 59-60, and claim 1) so that in use the weapon "is grasped and held in the fist of a law enforcing officer" such that the points 20, 21 "may be forced and held against any one of the numerous pressure points or nerve centers of the human anatomy...and the weapon is substantially concealed in the hand so as to present an element of surprise to the culprit." (Col. 2, lines 9-18).

All of applicant's pending structure claims, namely, claims 1-10, 12-14, 18, 19 and 22 call for the unitary body of the leverage end cap as being adapted for releasable attachment to the baton or being adapted for releasable threaded engagement with a peripheral thread on the proximal end of the baton. Similarly, method claims 15, 16, 20 and 21 call for either providing a leverage end cap having a distal end defining means for releasable attachment to the proximal end of the baton handle. Applicants' claims call for the enlarged knob end of the leverage end cap unitary body as engaging the base of the user's hand adjacent the little finger when received within and at least partially wrapping the circumferential groove during use with at least the pointing finger of the user's hand wrapping about and gripping the handle portion of the baton.

The Gowdey reference is substantially structurally and functionally different than applicant's claimed leverage end cap and must fail as an anticipatory reference. It is hornbook law that a patent reference must disclose all elements or steps of a claimed structure or method in order to anticipate the claim structure or method. The failure of Gowdey to teach or suggest all of the structural features and method steps of applicant's claims is expressly recognized on page 4 of the Office Action wherein the Examiner states: "Gowdey does not specifically disclose that the unitary body has a first end or a cylindrical end opposite the enlarged knob end that is

releasably engaged with a peripheral thread on a proximal end of the handle portion of the baton as set forth in claim 18 or a first end including means for releasably securing the proximal end of the baton by threaded connection as set forth in claims 20 and 21." In fact, all of applicant's claims call for the leverage end cap body as being adapted for releasable attachment to the proximal end of the baton with different degrees of specificity.

Claims 3, 4 and 10 stand rejected under 35 U.S.C. § 103(a) on Gowdey in view of U.S. patent No. 83,228 to Warne. Claims 3 and 4 depend from amended claim 1, and claim 10 depends from independent claim 8 through dependent claim 9. It is believed that the Examiner meant to refer to Warne (and not Gowdey) in line 4 of the bottom paragraph on page 3 of the Action as teaching "a policeman's extendable baton having a unitary body (D) defining an enlarged knob end (f') and intermediate U-shaped concave profile (f) adjacent the enlarged knob end." It is respectfully pointed out that the Warne reference is directed to a policeman's mace that "consists of a mace, having a hollow head of India rubber or other equivalent elastic material, and a rigid stem of metal, so that while the mace may be effective for inflicting temporary disabling blows, it will not inflict the permanent injuries frequently imparted by rigid staves."

It is also pointed out that component "A" in the Warne reference is the handle of the instrument, and consists of a metal tube, at the opposite ends of which are screw threads, a' adapted to receive nuts b b'. The Warne reference clearly teaches gripping the policeman's mace by the handle A in a manner to extend the rod B and thereby the head D of the mace for inflicting temporary disabling blows.

While not totally clear, it appears that the Examiner has taken the position that it would have been obvious at the time of applicant's invention to modify at least one of the ends (16 or 17) of Gowdey to incorporate the "handle body" of the extendable baton of Warne (which the Examiner has referred to as a "unitary handle body (D)" of the Warne reference. There is no teaching or suggestion in Warne of using the head D of the mace to grip the Warne mace during operation. In fact, to do so, would destroy the Warne reference for its intended purpose which is to employ the India rubber or elastic material head D to strike a person but not to inflict permanent injuries. Applicant's claims 3, 4 and 10 are therefore believed to be allowable.

Claims 5, 6, 12, 13, 16, 18, 19, 20 and 21 stand rejected under 35 U.S.C. 103(a) on Gowdey in view of U.S. patent No. 5,919,093 to Parsons. The Examiner has taken the position that "Gowdey discloses all of the limitations of the above claims except, Gowdey does not

specifically disclose that the unitary body has a first end or a cylindrical end opposite the enlarged knob end that is releasably engaged with a peripheral thread on a proximal end of the handle portion of the baton as set forth in claim 18 or a first end including means for releasably securing to the proximal end of the baton by threaded connected as set forth in claims 20 and 21." The Examiner concludes that it would have been obvious to one having ordinary skill in the art "to modify the police baton of Gowdey to incorporate the releasable end caps as taught by Parsons to provide an enhanced police baton providing interchangeable ends affording various tactical grip end sections and securement means for other working parts of the baton which are prevented from looseness and consequently avoiding damage during multiple operating positions of the baton."

As stated above in respect to the Gowdey reference, Gowdey discloses a police weapon having a hand-grip section (12) "extending in length the approximate width of a peace officer's fist." The opposite ends of the Gowdey police weapon are clearly formed integral with the hand grip section 12. There is no teaching or suggestion in Gowdey of modifying the Gowdey police weapon so as to incorporate releasable end caps (which, presumably, the Examiner is referring to as the opposite ends of the Gowdey police weapon). Gowdey specifically teaches a police weapon having a hand-grip section 12 that extends in length "the approximate width of a police officer's fist" enabling the weapon to be grasped and held in the fist of a law enforcing officer during use so that the points 20 and 21 of the weapon "may be forced and held against any one of the numerous pressure points or nerve centers in the human anatomy...." To make the opposite ends of the Gowdey police releasably as suggested by the Examiner in view of the Parsons reference would contribute to a much more expensive police weapon of the Gowdey type and defeat its single unitary construction enabling the weapon to be held in the fist of a police officer and easily manipulated. The specific construction and functional operation of the Gowdey police weapon is entirely different than the baton disclosed in the '093 Parsons patent reference. Moreover, there is no motivation found in either the Gowdey or Parsons references that would suggest to one of ordinary skill in the art to modify the Gowdey reference as suggested by the Examiner.

By specifically teaching a user of the Gowdey police weapon to grasp the Gowdey roughened hand-grip section "in the fist of a law enforcement officer", the Gowdey reference teaches away from applicant's claimed invention. Moreover, the Parsons reference teaches applying the end cap 23 to the threaded end 21 of the tube 12 "in order to hold the assembled

nested baton sections in place." The Parsons reference is totally silent in teaching or suggesting replacement of the end cap 23 with a leverage end cap as claimed for in the present claims.

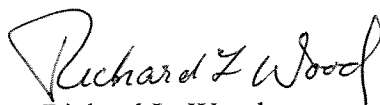
Finally, the Parsons Declaration under 37 CFR §1.132 filed with applicant's Supplemental Response Under 37 C.F.R. §§ 1.111 and 1.121 sets forth the background of applicant's claimed invention, including requests from law enforcement personnel for smaller and lighter equipment to enable them to carry out their law enforcement duties without endangerment to the themselves in crises situations. This need resulted in development of the claimed leverage end cap that could be applied to a baton to achieve an increase in the striking force potential of batons that were made shorter in length and thereby lacked the striking force capable with longer, heavier batons. Dr. Parson's Declaration also refers to the significant commercial success of the claimed leverage end cap with sales of over two million (2,000,000) of the leverage end caps.

It is respectfully submitted that the prior art of record not only fails to anticipate applicant's claimed invention, but also does not provide a teaching, suggestion or motivation for modification of any of the references of record, taken individually or in combination, to meet applicant's claimed structure and method as defined herein.

For the foregoing reasons, allowance of applicant's claims 1-10, 12-16 and 18-22 as now presented is believed to be in order and such action is earnestly solicited.

Respectfully submitted,

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